

VZCZCXRO5359
PP RUEHBC RUEHDE RUEHIHL RUEHKUK RUEHMOS
DE RUEHGB #1024/01 0881010
ZNY SSSSS ZZH
P 291010Z MAR 06
FM AMEMBASSY BAGHDAD
TO RUEHC/SECSTATE WASHDC PRIORITY 3600
INFO RUCNRAQ/IRAQ COLLECTIVE PRIORITY
RHEHNSC/WHITE HOUSE NSC WASHINGTON DC PRIORITY
RUEKJCS/SECDEF WASHINGTON DC PRIORITY

S E C R E T SECTION 01 OF 04 BAGHDAD 001024

SIPDIS

SIPDIS

E.O. 12958: DECL: 03/28/2026
TAGS: [PREL](#) [PGOV](#) [PHUM](#) [KJUS](#) [KDEM](#) [KCOR](#) [KCRM](#) [IZ](#)
SUBJECT: TOUR D'HORIZON FROM HIGHER JURIDICAL COUNCIL
PRESIDENT MEDHAT AL-MAHMUD

Classified By: Political Counselor Robert Ford, reasons 1.4(b) and (d)

¶1. (S) Summary. Judge Medhat al-Mahmud, President of the Iraqi Higher Juridical Council and Chief Justice of the Iraqi Federal Supreme Court, described the importance of public integrity and the need to keep -- but improve -- all the major anti-corruption institutions in Iraq today. He called for continual progress to improve the quality of the judiciary, and to increase the number of judges. He predicted efforts to reform the Bar Association Board of Directors would fall short, and described judicial efforts to investigate abuses of prisoners at Ministry of Interior prisons. End summary.

¶2. (S) Judge Medhat al-Mahmud (variant: Madhat al-Mahmood), President of the Iraqi Higher Juridical Council and Chief Justice of the Iraqi Federal Supreme Court, gave EmbOffs a tour d'horizon in two sessions on the afternoon of March 23 and the evening of March 25. Also present for both sessions was his nephew and son-in-law, Sermid al-Sarraaf, head of the International Institute for the Rule of Law and Chief of Party for the American Bar Association's law initiative in Iraq. Present at the first session was Layla al-Mahmud, also of the International Institute for the Rule of Law, who is also Judge Medhat's daughter and Mr. al-Sarraaf's spouse.

The Importance of Public Integrity

¶3. (C) Corruption in Iraq became a major problem for the country after the invasion of Kuwait, Judge Medhat explained, and became endemic during the 12 years of sanctions that followed. After the invasion of Kuwait, Saddam Hussein and his sons looted the assets of Kuwait. Corruption then became legitimate. Prices rose during that time while government salaries did not, and many government employees started taking bribes to maintain their standard of living. A government worker's salary could be ID 2,000/month while rent on his house was ID 100,000/month.

¶4. (C) After the fall of the regime, Judge Medhat said, "the opportunities were greater." Judge Medhat said, "The United States entered (Iraq) not understanding the environment," and "didn't know where the corrupt entities were. The criminal elements (then) advanced themselves." "Iraqis think that Americans are wealthy and smart," Judge Medhat advised. "So Iraqis agree that anyone who outsmarts an American was smart, too."

¶5. (C) Judge Medhat emphasized the importance of choosing honest ministers and top ministry officials. "If the minister is clean and the Directors General are clean," he said, "then even if the employee is inclined to corruption, he would refrain from corruption. But when the employee

sees the Director General or the Minister engaged in corruption, he will engage in corruption." Corrupt employees often give a portion of their take to the Minister. Deputy Ministers often divide the proceeds of corruption amongst themselves. "We must start at the top" to change this, Judge Medhat said.

¶6. (S) Judge Medhat was concerned that corruption was spreading in ministries because of the political parties controlling them. "Some ministers will come from classes that are deprived," he said. Out of "party loyalty," he said, they will work for their party, not the nation. "We need ministers who don't need to rely on corruption." If Iraq finds good ministers in the "technical side" (as opposed to the political side), employees will follow." Still Judge Medhat said it will take 10-15 years to get control of corruption in Iraq.

¶7. (C) Asked who would make a good Minister of Justice, Judge Medhat said that Iraq should find a person not tied to a political party, especially "not from any of the religious parties." Best would be someone working in the ministry, rather than a lawyer from outside the ministry.

¶8. (S) Judge Medhat said that he had sent the Prime Minister a letter on March 23 requesting the Prime Minister's support for prosecuting a current cabinet minister (name unknown) for misuse of government funds.

Keep Anti-Corruption Institutions but Fix Them

¶9. (S) EconMinCouns pushed the Judge to provide both

BAGHDAD 00001024 002 OF 004

candid views of the various anti-corruption institutions and the judge's prescriptions for improved cooperation among them. Each of the three major pillars of public integrity in Iraq -- the Inspectors General (IGs), the Board of Supreme Audit (BSA), and the Commission on Public Integrity (CPI) -- has problems, Judge Medhat said. However, all three institutions should be kept and reformed. Many IG's are good, but others are political or incompetent. In one case, an Inspector General initiated a complaint against Minister for Municipalities and Public Works Nasreen Barwari, which led to the CPI to seek her indictment. The word of her indictment leaked, damaging her reputation, but when the judges of the Central Criminal Court of Iraq (CCCI) reviewed the file, they found it grossly deficient. Experts in procurement were called in to assist the CCCI panel, and their judgment was that the charge of procurement fraud was without merit. Judge Medhat said that subsequent investigation (NFI) revealed the IG of the ministry was pursuing a personal or political vendetta against the minister and, as a consequence, the IG was suspended for six months. The solution, Judge Medhat said, was to remove IGs with political party or militia loyalties and replace them with experts who know the law. It was also important that the IGs be independent of the ministers they are to investigate, that they report to the oversight body of IGs in the Iraqi Government and to the Council of Representatives. Ministers must be barred from hiring, firing, or giving benefits to the IGs. "It is my hope," Judge Medhat said, that the IG "has no relation to anyone in that ministry and he knows everything that is going on in the ministry."

¶10. (S) Judge Medhat was particularly scathing against whomever was leaking word of corruption indictments requested by the CPI from the CCCI. He did not identify who was leaking these stories, but thought it was being done for political gain by the opponents of those indicted. This was bringing discredit on the institutions and the legal process, he said.

¶11. (S) Judge Medhat says there is a role for the CPI "if it stays close to the Board of Supreme Audit." Referring to Judge Radhi al-Radhi, he said, "the head of the CPI is a clean person, a person of integrity." However, CPI staff lack the experience in investigating certain types of crimes that the BSA is better qualified to investigate, he said.

¶12. (S) A particular problem was a sudden influx in the staff of the CPI, Judge Medhat said. The CPI's salaries were so much higher than comparable salaries in other agencies, he said. This might have been done to attract the best people and then insulate them from corruption, but it opened up room for exploitation. "So those who have connections or political party support got those positions," Judge Medhat said. "So CPI has employees who are not qualified or are under political influence." He reiterated the importance of selecting qualified people and keeping the CPI in close coordination with the BSA.

Reforming the Judiciary

¶13. (S) Judge Medhat, who was involved in helping vet judges for ties to the former regime, said that many of the "bad elements" in the judiciary had been removed, but not all of them. "The bad elements grew beards," he said, "both Sunni and Shia." He cautioned against acting too fast, however. "If you removed all (the bad elements) at once, there would be demonstrations," he warned. "Individuals supported by the parties in power" would succeed in getting their jobs back.

¶14. (S) The Judicial Review Committee (JRC) on which Judge Medhat sat was able to remove the most corrupt judges, he believed. Removals were based on the evidence, "but a day doesn't go by when someone doesn't write a letter criticizing the JRC." Letters written to ministers by those dismissed often result in a request from the minister for the JRC to explain its dismissal. "This is why it's important to bring in ministers who are clean," Judge Medhat said, because an honest minister will accept the JRC's explanation.

¶15. (S) Judge Medhat addressed the requirement in Article 92 of the new constitution that says that the Federal Supreme Court will be made up of "a number of justices, experts in Islamic jurisprudence, and legal scholars." Judge Medhat believes that only trained judges should serve

BAGHDAD 00001024 003 OF 004

on the court. Experts on Islamic jurisprudence should be treated as expert advisers to the court, with decisions left to judges, not religious scholars.

¶16. (S) Judge Medhat was asked how many additional judges Iraq needed to catch up with the backlog of criminal cases. Judge Medhat said that Iraq has 800 judges at present, and needs 400 new ones. The two-year Judicial Training Institute (JTI) has about 150 judges in training. (Note: The Director General of the JTI told Embassy Legal Adviser separately that they have 179 in their first year class and have been asked to select a class this year of 60-80 prospective jurists. End note.) Judge Medhat said that the Training Institute graduated judges at the lowest classes, whereas what he really needs are judges of the first or second class, i.e., the most senior, to take on the most complicated or politically sensitive cases. Some judges will be promoted in June, but the number of cases will increase, he predicted, as efforts to bring the insurgency under control result in more arrests. He looked forward to the day when Iraq needed more civil court judges to handle commercial law cases in a more active, prosperous economy.

Bar Association Politics

¶17. (U) Regarding the Iraqi Bar Association and the efforts to elect a new Board of Directors, Judge Medhat described it as one of the oldest professional associations in Iraq. It had a significant political role before Saddam. During the monarchy, he noted, the Bar Association and the Law Faculties helped to bring down prime ministers. Saddam took gradual control of the Bar association and made it a front for the Ba'th Party. In the immediate aftermath of April 9, 2003, Judge Medhat said, the United States tried to approach the Iraqi Bar Association as if it were the American Bar Association, but this did not work. Instead of letting the former Ba'thist leaders of the Bar Association fail on their own, the CPA rushed elections in August of 2003. As a result, the Ba'thist board members were all re-elected except for the president, Malik Dohan al-Hassan. When he was made Justice Minister, one of the Ba'thist directors was elected president in his place.

¶18. (S) The lawyers in Iraq do not think much of the present Bar Association, Judge Medhat said. It does little for them except issue IDs and collect dues.

¶19. (S) Judge Medhat said that the Justice Minister's initiative to call early elections will probably not work. Elections would have been in three months anyway. There is no natural leader able to lead the Bar Association in the right direction, Judge Medhat felt. The religious parties had not been able to agree on who their candidate would be. Judge Medhat was concerned that one of the ex-Ba'thists was likely to win, leaving the Bar Association with poor leadership for the two-year term of this next board of directors.

Human Rights Abuses

¶20. (S) Judge Medhat described some of the efforts of the judiciary to get on top of the Jadriyah Bunker scandal. In contrast to those incarcerated by the CCCI, all of whom were detained lawfully, both the Ministers of Defense and Interior had detainees who had not been before a judge.

¶21. (S) Judge Medhat said he had given orders to get judges to interview all detainees, and increased the number of investigators, and required the Chief Prosecutor to call the Deputy Minister of Interior to cooperate with the investigation panels, and to prepare appropriate facilities for the judges to be able to work in. However, corruption in the MOI was "delaying the resolution of cases."

¶22. (U) Poloff said that the USG was very concerned about the extent of human rights abuses associated with the Jadriyah Bunker and other MOI detention facilities. It was important for there to be a thorough investigation that all would see got to the bottom of the allegations. If no one is prosecuted, Poloff said, it will strengthen sectarianism, which was not in Iraq's interest nor ours.

¶23. (S) Judge Medhat said that Deputy Prime Minister Rowsh Shuways and his committee needed to meet with the judges

BAGHDAD 00001024 004 OF 004

who have been conducting their own investigation into the bunker story. Justice Attache Wood encouraged Judge Medhat to arrange such a meeting.

Comment

¶24. (S) Judge Medhat's constructive views of anti-corruption institutions and apparent willingness to work with them was somewhat surprising. Previously, he had not appeared to grasp just how massive the corruption problem in Iraq had grown. Adjudications of CPI corruption cases by the CCCI are vital for the perception of legitimacy of the government and the Rule of Law in Iraq. Training of CPI investigators continues, but even the most experienced has been in place for only 1 1/2 years. The CCCI has issued about 80 arrest warrants based on CPI investigations, but only a small fraction have been adjudicated.

¶25. (S) Judge Medhat's reputation for commitment to the Rule of Law and reform of the judiciary was outstanding until, in the aftermath of the Jadriyah Bunker scandal, the judiciary fell short of what was expected from it. It will be imperative to stay engaged with Judge Medhat to ensure that he understands the importance we place in getting to the bottom of the scandal and the need to hold accountable those responsible. Finally, we also need to place greater emphasis on trying to better understand the personalities and politics of the Higher Juridical Council, which will be a crucial institution in the coming months as implementing legislation for the new constitution tries to define the composition of the judiciary. End comment.
KHALILZAD